

### ARGUMENTS/REMARKS

Applicants would like to thank the examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and favorable reconsideration of the subject application is requested in view of the comments and/or amendments made herein.

Claims 22-32 and 34-42 remain in this application. Claims 1-21 were previously canceled. Claim 33 has been withdrawn and canceled, and applicant retains the right to present those claims in a divisional application. Claims 22 and 41 have been amended. New claims 43 and 44 have been added. No new matter has been added by the new claims or amendments.

According to the Examiner, the information disclosure statement filed on October 3, 2006 failed to comply with 37 CFR 1.98(a)(2), since legible copies of each cited foreign patent document was not filed along with the IDS. An information disclosure statement was filed on June 9, 2010 along with the appropriate copies of cited documents, and the requisite fee according to 37 CFR 1.98(d). Thus, the Examiner should consider those references.

The Examiner has indicated a preferred arrangement for the specification. Applicants note that such an arrangement is merely a suggested format, not a required format, and that the current arrangement should be acceptable as complying with all mandatory rules.

Claims 36, 38 and 40 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim amendments to those or other claims have rendered these rejections moot.

Claims 22-26, 28, 34-39, 41 and 42 were rejected under 35 U.S.C. 102(b) as being anticipated by *Kim et al.* (U.S. Publication No. 2003/0145699), herein referred to as Kim. Claims 22, 27, 30, 41 were rejected under 35 U.S.C. 102(b) as being anticipated by *Wadell* (U.S. Patent 5,186,089). Claim 29 was rejected under 35 U.S.C. 102(b) as being anticipated by *Wadell* (U.S. Patent No. 5,186,089). Claim 31 was rejected under 35

U.S.C 103(a) as being unpatentable over *Kim et al.* (U.S. Patent Publication No. 2003/0145699), herein referred to as *Kim* in view of *Johnson et al.* (U.S. Patent 5,566,600). For the following reasons, the rejections are respectfully traversed.

Independent claim 22, as amended, describes a method where food items are cut into strips at a first cutting stage, and then the strips are cut into quadratic pieces at a second stage at a cutting direction perpendicular to the first stage cutting direction. Independent claim 41 recites an apparatus having similar functions. New claim 43 recites similar features. None of the prior art references teach such a feature, and thus these claims, and the claims dependent thereon, are patentable over the references.

Furthermore, claims 22 and 41 also recite the feature of determining a portion-cutting profile by considering waste minimization and by planning the cutting for both stages from the beginning to optimize the predetermined dimension and/or weight for the cutting-up of the food items. These features are also not found in the cited references.

In addition, new claim 44 recites that the first and second cuttings are based on a cutting profile that is determined in advance of those cuttings, a feature also not found in the cited references.

In particular, Kim fails to disclose how sequential cutting stages can be arranged to optimize cutting of *quadratic* pieces (e.g., rectangular or cubic shaped pieces). Kim does also fail to disclose a portion-cutting profile that is optimized for planning quadratic pieces in consideration of waste minimization (In Kim the end products are predetermined 3-dimensional shapes that have to be cut out of the food item at hand with no disclosure that the computer can change for example, the size of the end products to something that considers minimal waste).

In consideration of the foregoing analysis, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. SCAN1-41253.

Respectfully submitted,  
PEARNE & GORDON, LLP

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By:       / Robert F. Bodi /      

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